

**WRITTEN STATEMENT OF**  
**Bob Ney**  
**Member of Congress**  
**BEFORE THE COMMITTEE ON GOVERNMENT REFORM'S**  
**SUBCOMMITTEE ON**  
**REGULATORY AFFAIRS**  
**UNITED STATES HOUSE OF REPRESENTATIVES**  
**HEARING ON**  
**Congressional Regulatory Reform Initiatives**  
**July 27, 2005**

Madam Chairman, Ranking Member Lynch, and Members of the Subcommittee, thank you for the opportunity to discuss regulatory reform and my bill the Joint Committee on Agency Rule Review Act of 2005 (H.R. 576).

Let me begin by discussing the current regulatory climate and how the federal government currently addresses new rules before proceeding to how my bill would improve these procedures and strengthen Congressional oversight of rule development.

In 2004, Congress passed, and the President signed, 299 bills into law. Over this same period regulatory agencies issued 4,101 final rules. I personally find the differences between these numbers staggering.

Unfortunately, they are not atypical of the current system and recent reports show that 4,266 more regulations are presently in different stages of development; 135 of these are economically significant rules which will have an impact of at least \$100 million each.

In fact, the Office of Information and Regulatory Affairs (OIRA) at the White House estimates regulations adopted over the last 10 years cost Americans between \$34 billion and \$38 billion annually. Some reports show the total impact of all federal regulations to be 10 times this amount each year.

Quite honestly, these regulatory costs have a substantial effect on our economy and the small businesses that drive it. A recent World Bank study titled "Doing Business 2004: Understanding Regulation" shows that cumbersome regulation is associated with lower productivity, increased abuse, higher costs and longer delays.

I believe it was this very committee which stated in an April 12, 2005 hearing that the compliance with governmental imposed regulations cost small businesses as much as \$7,000 dollars per employee. It was also stated by this Committee that the structural cost of American products compared with our foreign competitors is 22% higher due to federal regulations.

I appreciate the Committee drawing attention to this matter because it is important to show that regulations increase costs to small business and in a global economy these

regulations affect competitiveness. At a time when we are fighting with China to eliminate unfair trading practices and open their markets to US products, it simply doesn't make sense to make our products less desirable by increasing the overhead costs of American small businesses and driving up the cost of their products.

Not all regulations are bad, nor do they all have a negative effect. I believe some regulations are warranted, meet the intent of Congress, and have a positive cost benefit relationship. My concern is with our ability, as an institution, to review 4,000 rules a year. Independent of Members' individual views on a specific regulation, the avenues available to Congress, under the Congressional Review Act (CRA), to address costly, egregious rules are limited and rarely utilized.

In the eight years since the CRA took effect, federal agencies have submitted nearly 34,000 rules to Congress. Of these rules, 535 were major rules having an impact of at least \$100 million. Over this time period approximately 30 CRA joint resolutions of rule disapproval have been introduced regarding more than 20 of these 34,000 rules, but only one rule has been overturned through CRA's procedures.

My legislation, H.R. 576, would address this problem by establishing a special Joint Committee between the House and Senate that would be tasked with reviewing all regulations proposed by a federal agency. This Joint Committee on Agency Rule Review (JCARR) would vote in disapproval of the regulation if it violates the intent of the law it is supposed to implement. Then a disapproval resolution under the Congressional Review Act would be introduced in each chamber with guidelines established for expedited consideration.

This process works: my State of Ohio has had a functioning JCARR since 1977 and this Committee has played an important role ensuring the accountability of state agencies while limiting the power of state bureaucrats.

Here is a brief example of how JCARR would work if enacted into law.

In this scenario the EPA is proposing a regulation that could be harmful to businesses and threaten hundreds of jobs. Here is the step-by-step of how a review would work.

- 1) EPA publishes a final regulation that is bad – we'll call it Reg A for this example.
- 2) Under the law, Reg A must be submitted to JCARR when it is published. JCARR is then required to give the Committees of jurisdiction copies of the proposed regulation.
- 3) Once the rule is submitted to JCARR, a 60-day clock runs where the Committee has time to consider Reg A. Days where either house is out of session for more than 3 days do not count towards the 60 day deadline.

- 4) If JCARR takes no action and the clock runs out, Reg A takes effect; however, if JCARR votes to disapprove of Reg A, a joint resolution of disapproval is reported to Congress. If a majority of House and Senate Members vote to disapprove, the resolution goes to both chambers; however, if just the majority of one chamber's members vote in disapproval, the resolution is reported to only that chamber.
- 5) In the House, once the joint resolution is reported, the House has 3 days to bring the resolution to the floor otherwise it is in order for ANY member to make a privileged motion to consider the joint resolution. (These expedited procedures are important since major rules automatically take effect if not rejected within 60 days of being reported to Congress.)
- 6) In the Senate most of the expedited procedures are already in place because of the Congressional Review Act. The joint resolution will be referred to the committee of jurisdiction, however after 20 days as few as 30 members can sign a petition to have it discharged and at that point any Senator can move to have the motion considered.
- 7) If the joint resolution goes to both houses and passes, then it goes to the president for his signature.
- 8) If the President signs the joint resolution, Reg A will have no effect.
- 9) If the President vetoes the joint resolution, Congress has 30 session days to vote on overriding the veto before Reg A can take effect.
- 10) If either chamber fails in a vote to override the veto, Reg A takes effect immediately.

If enacted, JCARR would help to ensure that the regulations implementing laws passed by Congress adhere to the spirit of the legislation and are not detrimental to our nation's economy. I hope that you will choose to support this legislation which I believe is vital to restoring a balance between the executive and legislative branches of our government.